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**Notice of Allowability**

Application No.

09/404,772

Examiner

Qamrun Nahar

Applicant(s)

HAVNER ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 7/26/04.
2. ☒ The allowed claim(s) is/are 1-21 and 23-31.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

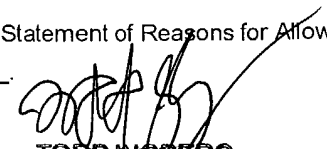
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**TODD INGEBERG**  
**PRIMARY EXAMINER**

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 7/26/04.
2. The objection to claims 23-24 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims is withdrawn in view of applicant's amendment.
3. The rejection under 35 U.S.C. 101 as claiming the same invention as that of claims 1-20 of prior U.S. Patent No. 6,477,435 to Ryan et al. to claims 25-27 is withdrawn in view of applicant's remarks/arguments filed on 7/26/04, pg. 10, par. 3 to pg. 11, par. 1.
4. The rejection under 35 U.S.C. 102(b) as being anticipated by Lewis (U.S. 5,812,394) to claim 22 is moot in view of applicant's amendment.
5. Claim 22 has been cancelled.
6. Claim 23 has been amended.
7. Claims 1-21 and 23-31 are pending.
8. Claims 1-21 and 23-31 are allowed.
9. The reasons for allowance/allowable subject matter have already been indicated in the previous Office Action, Mailed on 04/28/2004, Paper No. 12, par. 15 and 16.

### **REASONS FOR ALLOWANCE**

10. The following is an examiner's statement of reasons for allowance:

The cited prior art taken alone or in combination fail to teach, in combination with the other claimed limitations, a first program builder accepting user input to link in a first linking process instances of first program fragments from files in the library manager together to create a

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first portion of the control program and a second program builder accepting information about the first liking process, and user input, to create a second portion of the control program from second program fragments taken from the same files of the first program fragments used in the first portion of the control program as substantially recited in independent claims 1, 16, 19, 23, 28 and 31; or instantiating the program fragments about which the commands were received, wherein the instantiating of the program fragments automatically results in establishment of operational connections among the program fragments associated with the different entities as recited in independent claim 25.

The closest cited prior art, Lewis (U.S. 5,812,394) discloses a method and system of creating a control program, where a template, including logic and symbol, is created/instantiated in one step/stage creation. However, Lewis (U.S. 5,812,394) fails to teach two stage creation, where a first program builder accepting user input to link in a first linking process instances of first program fragments from files in the library manager together to create a first portion of the control program and a second program builder accepting information about the first liking process, and user input, to create a second portion of the control program from second program fragments taken from the same files of the first program fragments used in the first portion of the control program as substantially recited in independent claims 1, 16, 19, 23, 28 and 31; and instantiating the program fragments about which the commands were received, wherein the instantiating of the program fragments automatically results in establishment of operational connections among the program fragments associated with the different entities as recited in independent claim 25; and as pointed out by the applicant's remarks/arguments filed on 3/30/04,

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pg. 11, par. 7 to pg. 12, par. 3; pg. 14, par. 4 to pg. 15, par. 3; pg. 18, par. 2 to par. 3; pg. 19, par. 2 to pg. 20, par. 2; pg. 20, par. 4 to pg. 21, par. 2; and pg. 21, par. 4 to par. 5.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

11. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (703) 305-7699 *if calling before October 28, 2004*; otherwise *if calling on or after October 28, 2004*, then the telephone number is (571)272-3730. The examiner can normally be reached on Mondays through Thursdays from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki, can be reached on (703) 305-9662. The fax phone number for the organization where this application or processing is assigned is (703) 872-9306.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Qamrun Nahar  
October 6, 2004



TODD INGERBERG  
PRIMARY EXAMINER